REMARKS

Claims 28, 38 and 39 are all the claims pending in the application, prior to the present invention.

The Examiner has withdrawn all of the previous rejections, except for the rejection over the prior art.

In particular, claims 28 and 38-39 have been rejected under 35 U.S.C. 103(a) as being unpatentable over WO 2002/092067 to Fuji et al (citing to U.S. Patent Application Publication No. 2004/0115181 (2004) for an English translation) in view of the Wilson et al publication, and further in view of the excerpt from Remington's Pharmaceutical Sciences (Fifteenth Edition, 1980, page 712) for the reasons of record set forth at p.5-12 of the previous Office Action dated March 25, 2010.

Applicants submit that Fuji et al, Wilson et al and the excerpt from Remington's Pharmaceutical Sciences do not disclose or render obvious the presently claimed invention and, accordingly, request withdrawal of this rejection.

In general, the Examiner has maintained her previous rejection. As before, the Examiner appears to agree that applicants have shown unexpected results, but asserts that the results are not commensurate in scope with the breadth of the claims.

In response, applicants have amended claim 28 to recite that the fatigue reducing agent is administered in a fatigue reducing amount, and is administered with a ratio of reduced coenzyme Q to total coenzyme Q of not less than 99% by weight or is administered such that the reduced coenzyme Q is in an amount of 100% based on total coenzyme Q. The recitation of not less than 99% by weight is supported by Examples 1 to 4 of the present specification. The recitation of a fatigue reducing amount is supported by Example 4 of the present specification. In addition,

applicants have amended dependent claim 39 to recite the active ingredient is reduced coenzyme Q and oxidized coenzyme Q and the ratio of reduced coenzyme Q to total coenzyme Q is an amount of 99% by weight. Further, applicants have added a new dependent claim 40 to recite that the active ingredient is reduced coenzyme Q and oxidized coenzyme Q and the ratio of reduced coenzyme Q to total coenzyme Q is 99 to 99.5% by weight. Support for this claim can be found in Example 4 and at page 9, line 10 of the specification.

Applicants submit that the results of Examples 3 and 4 and Comparative Examples 3 and 4 are clearly commensurate in scope with what is presently claimed and sufficient to establish non-obviousness of the claims directed to the range corresponding to these Examples by the aforementioned amendment.

The Examiner has stated that the results of the Examples shown with the therapeutic amount of 300 mg/kg reduced coenzyme Q10 in soybean oil formulation demonstrated an unexpected and unpredictable effect, but that the results are not commensurate in scope with the breadth of the claims applicants. However, the present invention is based on the fact that reduced coenzyme Q10, as opposed to oxidized Q10, is mainly effective for reducing fatigue. Applicants submit that one of ordinary skill in the art would recognize that the particular formulation, such as a soybean formulation, is not substantially important and does not represent the gist of the invention, which is to administer a fatigue reducing amount of reduced coenzyme Q10. Therefore, claim 28 as amended above which recites administering a fatigue reducing amount of reduced coenzyme Q with the recited ratio in claim 28 of reduced coenzyme Q to the total coenzyme Q of <u>not less than 99%</u> sufficiently represents the gist of the present invention.

Applicants submit that the results of Examples 1 to 4 are clearly commensurate in scope with what is presently claimed and sufficient to establish nonobviousness of the amended claims.

In view of the above, applicants submit that Fuji et al, Wilson et al and the excerpt from Remington's Pharmaceutical Sciences do not disclose or render obvious the presently claimed invention and, accordingly, request withdrawal of this rejection.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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Date: June 13, 2011